REMARKS

The Applicants appreciate the Examiner's thorough examination of the subject application. Applicants request reconsideration of the subject application based on the following amendments and remarks.

Claims 1-6, 11-13, 18, and 19 have been amended and claims 7-10, 14-17, 20, and 21 have been cancelled without prejudice or disclaimer. New claims 22-27 have been added. Support for the amendments to the claims can be found throughout the specification and claims as filed. No new matter has been added by the amendments to the specification or the claims.

Claims 6-7, 9, 12, 13-14, 16, and 18 were objected to under 37 CFR 1.75(c) as being allegedly in improper multiple dependant format.

Applicants believe that claims 6-7, 9, 12, 13-14, 16, and 18, as amended, are fully compliant with the requirements of 37 CFR 1.75 including the requirements of 1.75(c) and request that the objection be withdrawn and the claims receive consideration.

Claims 1-5, 8, 10-11, 15, 17, and 19 were rejected under 35 U.S.C. §112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicants respectfully submit that the claims, as amended, are fully compliant with all of the requirements of 35 U.S.C. §112, including the requirements of §112, second paragraph. Thus, Applicants request withdrawal of the §112 rejections and reconsideration of the claims.

Claims 1-2, 4-5, 8, 10, and 15 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Lee et al. (U.S. Patent 5,273,991).

The rejection is respectfully traversed.

The present invention provides methods of alkylating DNA which comprise the use of a cyclopropane based alkylating agent.

Lee fails to disclose or suggest alkylating agents having a cyclopropane ring or a cyclopropyl residue. The Lee reference also fails to teach or suggest methods of alkylating DNA using such compounds.

Claim 1 is patentable over the Lee patent. Claims 2-8, 11-14 and 16-19, and 22 depend from claim 1 and are therefore also patentable over the cited documents.

In view thereof, reconsideration of the application and withdrawal of the §102 and §103 rejections are requested.

For example, see *In re Marshall*, 198 USPQ 344, 346 (CCPA 1978) ("[r]ejections under 35 U.S.C. §102 are proper only when the claimed subject matter is identically disclosed or described in the prior art.") Additionally, it is well-known that to establish a *prima facie* case of obviousness, three basic criteria must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference(s) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143.

There is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the cited references to make the claimed invention, nor is there a reasonable expectation of success.

Although it is not believed that any additional fees are needed to consider this submission, the Examiner is hereby authorized to charge our deposit account no. 04-1105 should any fee be deemed necessary.

Respectfully submitted,

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